

Hearing Date and Time: February 20, 2007, at 10:00 a.m. Eastern Time
Objection Deadline: February 15, 2007, at 4:00 p.m. Eastern Time

Robert A. Scher (RS 2910)
FOLEY & LARDNER LLP
90 Park Avenue
New York, NY 10016
Phone: (212) 682-7474
Fax: (212) 682-2329
email: rscher@foley.com

-and-

Mark L. Prager (*admitted pro hac vice*)
William J. McKenna (*admitted pro hac vice*)
Jill L. Murch (*admitted pro hac vice*)
Joanne Lee (*admitted pro hac vice*)
FOLEY & LARDNER LLP
321 N. Clark Street, Suite 2800
Chicago, IL 60610
Phone: (312) 832-4500
Fax: (312) 832-4700

*Attorneys for Claimant Parus Holdings, Inc.
Successor-By-Merger to EffectNet, Inc. and
EffectNet, LLC*

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

In re:)	CHAPTER 11
)	Jointly Administered
WORLDCOM, INC., et al.,)	
)	
Debtors.)	Case No. 02-13533 (AJG)
)	

**NOTICE OF MOTION OF PARUS HOLDINGS, INC.'S FOR RELIEF
RESULTING FROM THE DEBTORS' SPOILIATION OF EVIDENCE**

PLEASE TAKE NOTICE that a hearing will be held upon the annexed motion, dated January 26, 2007 (the "Motion"), of Parus Holdings, Inc., successor by merger to EffectNet, Inc. and EffectNet, LLC ("Parus" and/or "EffectNet"), a creditor and party-in-interest in the above captioned case regarding proofs of claim, bearing claim numbers 11173 and 11242, filed contemporaneously with this Notice of Motion, for the entry of an order (the "Order"), before the Honorable Arthur J. Gonzalez, United States Bankruptcy Judge, in Room 523 of the United States Bankruptcy Court, Alexander Hamilton Custom House, One Bowling Green, New

York, New York 10004, on **February 20, 2007 at 10:00 a.m.** (Eastern Time), or as soon thereafter as counsel may be heard.

PLEASE TAKE FURTHER NOTICE that responses or objections to the Motion, if any, must be in writing, shall conform to the Federal Rules of Bankruptcy Procedure and the Local Rules of the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”), and shall be filed with the Bankruptcy Court electronically in accordance with the First Amended Case Management Order (i) Establishing, Among Other Things, Notice Procedures (Including by Electronic Means), Omnibus Hearing Dates, and Alternative Methods of Participation at Hearings and (ii) Authorizing Worldcom, Inc. et al., to Establish an Independent Website (docket entry no. 2454) and General Order M-242 (General Order M-242 and the User’s Manual for the Electronic Case Filing System can be found at www.nysb.uscourts.gov), by registered users of the Bankruptcy Court’s Electronic Case Filing System and, by all other parties in interest, on a 3.5 inch disk, preferably in Portable Document Format (PDF), WordPerfect, or any other Windows-based word processing format (with a hard-copy delivered directly to Chambers), and shall be served in accordance with General Order M-242 upon i) Stinson Morrison Hecker, LLP, Attorneys for the Reorganized Debtors, 1201 Walnut Street, Suite 2900, Kansas City, MO 64106, Attn: Allison M. Murdock; and ii) Foley & Lardner LLP, Attorneys for Parus Holdings, Inc., successor by merger to EffectNet, Inc. and EffectNet, LLC, 321 North Clark Street, Suite 2800, Chicago, IL 60610, Attn: Jill L. Murch, and shall be filed with the Clerk of the United States Bankruptcy Court for the Southern District of New York, in each case so as to be received no later than **February 15, 2007 at 4:00 p.m.** (Eastern Time).

Dated: January 26, 2007

Respectfully submitted,

By: /s/ Jill L. Murch

Robert A. Scher (RS 2910)
FOLEY & LARDNER LLP
90 Park Avenue
New York, NY 10016
Phone: (212) 682-7474

-and-

Mark L. Prager (*admitted pro hac vice*)
Jill L. Murch (*admitted pro hac vice*)
Joanne Lee (*admitted pro hac vice*)
FOLEY & LARDNER LLP
321 N. Clark Street, Suite 2800
Chicago, IL 60610
Phone: (312) 832-4500
Fax: (312) 832-4700

*Attorneys for Claimant Parus Holdings,
Inc., Successor-By-Merger to EffectNet,
Inc. and EffectNet, LLC*

Hearing Date and Time: February 20, 2007 at 10:00 p.m. Eastern Time
Response Deadline: February 15, 2007 at 4:00 p.m. Eastern Time

Robert A. Scher (RS 2910)
FOLEY & LARDNER LLP
90 Park Avenue
New York, NY 10016
Phone: (212) 682-7474
Fax: (212) 682-2329
email: rscher@foley.com

-and-

Mark L. Prager (*admitted pro hac vice*)
William J. McKenna
Jill L. Murch (*admitted pro hac vice*)
Joanne Lee (*admitted pro hac vice*)
FOLEY & LARDNER LLP
321 N. Clark Street, Suite 2800
Chicago, IL 60610
Phone: (312) 832-4500
Fax: (312) 832-4700

*Attorneys for Claimant Parus Holdings, Inc.
Successor-By-Merger to EffectNet, Inc. and
EffectNet, LLC*

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

In re:)	CHAPTER 11
)	Jointly Administered
WORLDCOM, INC., et al.,)	
)	
Debtors.)	Case No. 02-13533 (AJG)
)	

**MOTION OF PARUS HOLDINGS, INC. FOR RELIEF
RESULTING FROM THE DEBTORS' SPOILIATION OF EVIDENCE**

Claimant Parus Holdings, Inc., as successor by merger to EffectNet, Inc. and EffectNet LLC ("Parus" and/or "EffectNet"), pursuant to the Court's inherent equitable powers to adjudicate the matters before it; 11 U.S.C. § 105(a); Federal Rule of Civil Procedure 37, as incorporated by Rule 7037 of the Federal Rules of Bankruptcy Procedure; and Local Rule 7007-

1¹ for the United States Bankruptcy Court for the Southern District of New York, by and through its attorneys Foley & Lardner LLP, hereby respectfully requests that the Court grant certain remedies against Intermedia Communications, Inc. and MCI WorldCom Communications, Inc. (together, the “Debtors”) in connection with the Debtors’ failure to preserve and maintain evidence related to Parus’ claims.² As discussed in detail in the Memorandum of Law filed concurrently herewith, Parus requests that the Court consider a number of remedies relating to the Debtors’ failure to preserve and maintain information relevant to Parus’ claims.

WHEREFORE, Parus respectfully requests that the Court enter an order:

- (a) Granting an adverse inference against the Debtors in favor of Parus;
- (b) Barring the Debtors from presenting and/or contesting evidence related to damages asserted by Parus;
- (c) Awarding damages against the Debtors; and/or

¹ Parus submits that it has complied with the Court’s Local Rules, including Rule 7007-1. This matter is already pending before the Court and has been pending before the Court on numerous occasions. At the July 11, 2006 hearing before the Court, prior counsel to Parus alleged that the Debtors were required to preserve documents relating to Parus and that possible sanctions such as an adverse inference were appropriate. In response, the Court ordered the Debtors to produce their IT employees for deposition. The Court then addressed the very issue of what steps the Debtors took to preserve data, noting:

I assume it is an industry-wide standard as to what you would apply coupled with the issues about knowing whether a litigation or having any indication that a litigation may follow as to what then you do with data and whether or not proper actions were taken to preserve data once it became known that there was an issue that may ultimately end in litigation.

(July 31, 2006 Hearing Transcript, 16:22-17:4). The Court then informed the parties to come back for a hearing once the IT depositions were complete – which is what Parus is doing. Indeed, on September 5, 2006 Parus further apprized the Court of its spoliation case when it filed Parus’ Motion to Stay Court’s Ruling on Debtors’ Motion for Summary Judgment Pending Discovery Regarding Spoliation. At the October 6, 2006 hearing, the Court again invited the parties to appear before it. (Oct. 3, 2006 Hearing Transcript, 10:19-12:3). As such, compliance with Rule 7007-1 has been satisfied.

² Parus’ Claims are designated as Claim Nos. 11242 and 11173.

(d) Granting such other and further relief as this Court deems just and proper, including, but not limited to, a denial of the Debtors' pending summary judgment motion against Parus.

Dated: January 26, 2007

Respectfully submitted,

By: /s/ Jill L. Murch
Robert A. Scher (RS 2910)
FOLEY & LARDNER LLP
90 Park Avenue
New York, NY 10016
Phone: (212) 682-7474

-and-

Mark L. Prager (*admitted pro hac vice*)
William J. McKenna (*admitted pro hac vice*)
Jill L. Murch (*admitted pro hac vice*)
Joanne Lee (*admitted pro hac vice*)
FOLEY & LARDNER LLP
321 N. Clark Street, Suite 2800
Chicago, IL 60610
Phone: (312) 832-4500
Fax: (312) 832-4700

Attorneys for Claimant Parus Holdings, Inc., Successor-By-Merger to EffectNet, Inc. and EffectNet, LLC

Robert A. Scher (RS 2910)
 FOLEY & LARDNER LLP
 90 Park Avenue
 New York, NY 10016
 Phone: (212) 682-7474
 Fax: (212) 682-2329
 email: rscher@foley.com

-and-

Mark L. Prager (*admitted pro hac vice*)
 William J. McKenna (*admitted pro hac vice*)
 Jill L. Murch (*admitted pro hac vice*)
 Joanne Lee (*admitted pro hac vice*)
 FOLEY & LARDNER LLP
 321 N. Clark Street, Suite 2800
 Chicago, IL 60610
 Phone: (312) 832-4500
 Fax: (312) 832-4700
 Attorneys for Claimant Parus Holdings, Inc.
 Successor-By-Merger to EffectNet, Inc. and
 EffectNet, LLC

UNITED STATES BANKRUPTCY COURT
 FOR THE SOUTHERN DISTRICT OF NEW YORK

In re:)	CHAPTER 11
)	Jointly Administered
WORLDCOM, INC., et al.,)	
)	
Debtors.)	Case No. 02-13533 (AJG)
)	

**ORDER GRANTING CLAIMANT PARUS
 HOLDINGS, INC.'S MOTION FOR RELIEF RESULTING
FROM THE DEBTORS' SPOILIATION OF EVIDENCE**

This matter coming before the Court on Claimant Parus Holdings, Inc.'s ("Parus") Motion for Relief Resulting from the Debtors' Spoliation of Evidence (the "Motion"); the Court having reviewed the Motion and having considered the statements of counsel and the evidence adduced with respect to the Motion at a hearing before the Court (the "Hearing"), and the Court having found that (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (b) this is a core proceeding pursuant to 28 U.S.C. § 157(b), and (c) notice of the Motion and the Hearing were sufficient under the circumstances, and the Court having determined that

the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED.
2. A hearing to determine the appropriate remedies to be issued against Intermedia Communications, Inc. and MCI WorldCom Communications, Inc. (collectively, the “Debtors”) and in favor of Parus Holdings, Inc. as a result of the Debtors’ spoliation of evidence is hereby set for _____, 2007 at _____ a.m. EST.
3. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation of this Order.
4. This Order is a Final Order within the meaning of 28 U.S.C. § 158(a)(1) and is effective immediately upon entry.

Dated: New York, New York
February _____, 2007

HONORABLE ARTHUR J. GONZALEZ
UNITED STATES BANKRUPTCY JUDGE